

Technology Investment Agreement

between

The United States Of America

USAF/AFMC

DET 1 AF RESEARCH LABORATORY
2310 EIGHTH STREET, BUILDING 167
WRIGHT-PATTERSON AFB OH 45433-7801

and

CAGE:

Concerning

****Insert Name of Title III Program Here****

Sample Title III TIA

Agreement No.: FA8650-08-2-4321

Total Amount of the Agreement: \$0.00

Government share: \$0.00

Recipient share: \$0.00

Authority: 10 U.S.C. 2358

Effective Date:

Catalog of Federal Domestic Assistance number: 12.800

Notice:

For

For the United States of America

Name:

Title:

NORMAN L. WILLIS

Agreements Officer

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1.010 ORDER OF PRECEDENCE (APR 2000) (TAILORED)

In the event of a conflict between the terms of this agreement and other governing documents, the conflict shall be resolved by giving precedence in descending order as follows:

- (a) The articles in this agreement; and
- (b) The attachments to this agreement, if any.
- (c) DoD 3210.6-R, the DoD Grant and Agreement Regulations (DoDGARS) (13 Apr 98);

1.020 ADMINISTRATIVE RESPONSIBILITIES (JUN 2001) (TAILORED)

(a) Government representatives are:

Agreements Officer:

XXXXXXXXXXXXX
Agreements Officer
Det 1 AFRL/PKMD
2310 8th Street
Wright-Patterson AFB, OH 45433-7801
XXX.XXX@wpafb.af.mil
(937) XXX-XXXX
(937) 255-5302 (fax)

Business Point of Contact:

XXXXXXXXXXXXX
Agreements Negotiator
Det 1 AFRL/PKMD
2310 8th Street
Wright-Patterson AFB, OH 45433-7801
XXX.XXX@wpafb.af.mil
(937) XXX-XXXX
(937) 255-5302 (fax)

Agreements Administration Office:

DCMA XXXXXXXX
XXXXXXXXXXXXX
XXXXXXXXXXXXX
XXX-XXX-XXXX
XXXXXXXX@DCMA.MIL

Government Program Manager:

XXXXXXXXXXXXX
AFRL/RXME
2977 Hobson Way
Wright-Patterson AFB, OH 45433-7739
XXX.XXX@wpafb.af.mil
(937) XXX-XXXX

Payment Office:

DFAS Columbus Center (HQ0XXX)
DFAS-CO/XXXX Entitlement Operations
P.O. Box XXXXX
Columbus, OH 43218-XXXX

Financial Management:

XXXXXXXXXXXXX
AFRL/RXFM
2230 10th Street
Bldg 653, Room 206
Wright-Patterson AFB, OH 45433-7817
XXX.XXX@wpafb.af.mil
(937) XXX-XXXX

Servicing Staff Judge Advocate's office (for invention reporting)

AFMC LO/JAZI
Bldg. 11, Area B
2240 B Street, Rm 100
Wright-Patterson AFB, OH 45433-7109

(b) Recipient's representatives are:

Contracts Manager:

XXXXXXXXXX
XXXaddressXXX
XXXemailXXX
XXXphoneXXX

Recipient's Program Manager:

XXXXXXXXXX
XXXaddressXXX
XXXemailXXX
XXXphoneXXX

2.020 TERM OF THE AGREEMENT (APR 2000) (TAILORED)

The term of this agreement for this effort is XXX months, XXX months for technical effort and XXX months for completing the final report, commencing on the effective date shown on the first page of this agreement. The technical effort will be complete on XX Month 20XX, and the final report will be due XX Month 20XX. If all funds are expended prior to the end of the term (including recipient contributions, both cash and in-kind), the parties have no obligation to continue and may elect to cease performance at that point. Articles in this agreement which by their express terms or by necessary implication, apply for periods of time other than as specified in this article shall be given effect, notwithstanding this article.

2.021 SCOPE OF THE AGREEMENT (SEP 2005)

(a) Overall Project Intent. The Parties recognize that the ultimate intent of the project is to XXXXXXXX. The Parties agree that this effort could potentially continue using a phased (spiral) execution approach. Furthermore, the value of the agreement may increase over time depending upon the successful completion of phases. If additional phases are determined necessary, additional phases will be negotiated, and will require the Agreements Officer's approval. Phases may overlap and run

concurrently so as to finish any unfinished work from a previous phase. The Parties recognize the recipient will demonstrate a level of continued commitment in the project. A portion of this continued commitment supports the Title III objective of economic viability and takes the form of strategic business planning, technical marketing support, and the Recipient's cost share investment. The Recipient will designate the company's existing strategic business plan as the current strategy business baseline with the intention of developing and implementing an enhanced strategic business plan and technical marketing effort that recognizes the increased business and marketing opportunities that result from this agreement.

(b) Commitment . If additional phases are awarded, the agreement will continue to be a Cost Share agreement. The Parties recognize that the Recipient anticipates making economic contributions to maximize the attainment of the objectives of the project with the expectation/potential of receiving a compensating benefit. Based on the overall scope of the project, the Recipient estimates that a portion of cost share will be expended by the Recipient in support of the objectives of the project. The Recipient's total cost share commitment for the entire implementation of this Title III program shall be established prior to continuation of the program. A list of proposed cost share items and the valuation of each item, shall be provided to the Agreements Officer along with the proposal for additional phases. The Agreements Officer has discretion for acceptance or non-acceptance of proposed cost share items. After cost share items have been approved, the Recipient must maintain and track cost share items and provide updates as necessary, but no less than quarterly, in conjunction with the required quarterly reports for this project.

2.030 TERMINATION (APR 2000) (TAILORED)

(a) The Agreements Officer may terminate this agreement by written notice to the recipient upon a finding that the recipient has failed to comply with the material provisions of this agreement.

(b) Additionally, this agreement may be terminated by either Party upon written notice to the other Party. Such written notice shall be preceded by consultation between the Parties. If the Recipient initiates the termination, written notification shall be provided to the Agreements Officer at least 30 days prior to the requested effective date. The notification shall state the reasons for the termination, the requested effective date, and, if a partial termination, the portion to be terminated. If the Agreements Officer determines, in the case of a partial termination, that the reduced or modified portion of the award will not accomplish the purpose for which the award was made, the Agreements Officer may terminate the award in its entirety.

(c) The Government and the Recipient will negotiate in good faith an equitable reimbursement for work performed toward accomplishment of program goals. The Government will allow full credit to the Recipient for the Government share of the obligations properly incurred by the Recipient prior to termination, and those noncancellable obligations that remain after the termination not to exceed the amount of funds obligated to the agreement at the time of termination. The cost principles and procedures described in the article entitled "Cost Principles" shall govern all costs claimed, agreed to, or determined under this article.

(d) If this agreement is incrementally funded, it may be terminated in the absence of additional government funding as set forth in the article entitled "Incremental Funding".

(e) In the event of a termination, the Government shall have a paid-up Government purpose license in any subject invention, copyright work, and data made or developed under this agreement.

2.040 EXTENDING THE TERM (APR 2000) (TAILORED)

If the Parties agree, the term of this agreement may be extended if funds are available and research and development opportunities reasonably warrant. Any extension shall be formalized through modification of the agreement by the Agreements Officer and the Recipient.

3.010 SCOPE AND MANAGEMENT OF THE PROGRAM (JUN 2001) (TAILORED)

(a) The Government and the Recipient are bound to each other by a duty of good faith and best effort to achieve the goals of this agreement. This agreement is not intended to be, nor shall it be construed as, by implication or otherwise, a partnership, a corporation, or other business organization.

(b) The Recipient shall perform a coordinated program effort carried out in accordance with the Statement of Work, dated XX Month 20XX, entitled "Title III Program Statement of Work", as Attachment 1 to this agreement. The Recipient shall submit all documentation required by Part 7, Technical and Financial Reporting.

(c) The overall management, including technical, programmatic, reporting, financial and administrative matters, of the coordinated program established under this agreement shall be accomplished by the Recipient. The Government Program Manager will interact with the Recipient to promote effective collaboration between the Recipient and the Government. Changes to this agreement that would result in (1) a change in the scope or the objective of the project or program or (2) a need for additional federal funding must be approved by the Agreements Officer, and the agreement modified in accordance with the article entitled "Modifications".

(d) The Recipient will establish a schedule of quarterly technical meetings, to be held at alternating locations between the Recipient's facility and the Program Manager's office. The Government Program Manager may participate in all technical meetings. Other Government and non-government personnel, as deemed appropriate, may also participate. Non-government personnel will be required to maintain nondisclosure agreements with the Government that prohibits those employees from disclosing any information submitted by any other contractor/recipient. Bi-weekly teleconferences will also be held between the scheduled quarterly meetings.

3.020 PROGRAM MANAGEMENT PLANNING PROCESS (APR 2000) (TAILORED)

(a) The Program Plan provides a detailed schedule of project activities, commits the Recipient to use its best efforts to meet specific performance objectives, includes forecasted expenditures and describes the payable milestones if applicable. The Program Plan will consolidate all prior adjustments in the program schedule, including revisions/modifications to payable milestones if applicable.

(b) For the first agreement year, the Recipient will follow the plan as set forth in the Statement of Work.

(c) The Plan shall be updated, with Government Program Manager involvement, in each subsequent agreement year to reflect any changes necessary for completing the program.

3.031 MODIFICATIONS (APR 2000) (TAILORED)

(a) Modifications to this agreement may be proposed by either Party. Recipient recommendations for any modifications to this agreement, including justifications to support any changes to the Statement of Work or Recipient's proposal as incorporated by reference and/or the payable milestones, shall be submitted in writing to the Government Program Manager with a copy to the Agreements Officer. The Recipient shall detail the technical, chronological, and financial impact of the proposed modification to the program. Changes are effective only after the agreement has been modified. Only the Agreements Officer has the authority to act on behalf of the Government to modify this agreement.

(b) The Agreements Officer or Administrative Agreements Officer may unilaterally issue minor or administrative agreement modifications (e.g., changes in the paying office or appropriation data, or changes to Government personnel identified in the agreement, etc.)

3.041 PROPERTY (APR 2000) (TAILORED)

(a) Recipients may purchase real property or equipment in whole or in part with federal funds or, in whole or in part with recipient funding under an award only with the prior approval of the agreements officer (except that additional approval is not required for such items included in the proposed/negotiated budget at the time of award). If the recipient purchases real property (other than land) or equipment with their own funding, and designates the real property or equipment as recipient cost share, the Government will have a financial interest in the real property or equipment. The financial interest of the Government is determined by the Federal participation in the project.

(b) Equipment is defined as tangible nonexpendable personal property charged directly to the award having a useful life of more than one year and an acquisition cost of \$5,000.00 or more per unit.

(c) Title to all real property or equipment purchased by the recipient with federal funds under this agreement will vest with the Government throughout the agreement. The Government may elect to transfer title to all (or some) of the real property or equipment to the recipient at the end of the agreement, if the recipient's performance is satisfactory, and subject to compliance with the criteria listed below in subparagraphs (c)(1), (c)(2), and (c)(3).

(1) Use the real property or equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project.

(2) Not encumber the property without approval of the agreements officer.

(3) Use and dispose of the property in accordance with paragraphs (e), (f) and (g) of this article.

(d) Title to all real property or equipment purchased by the recipient with recipient funds and designated as recipient cost share under this agreement, will vest with the recipient subject to subparagraphs (c)(1), (c)(2), and (c)(3) above. As stated in paragraph (a) above, the Government will have a financial interest in the real property or equipment. The Government may relinquish all financial interest in the recipient purchased equipment at the end of the agreement, provided the recipient's performance is satisfactory, and the recipient provides:

(1) Guaranteed, ongoing responsiveness to DoD requirements for products and services that require use of the equipment. If the recipient's performance is not satisfactory, the provisions listed above in paragraph (c)(1) through (c)(3) will apply.

(e) During the time the real property or equipment is used on this program, the recipient shall make it available for use on other projects or programs, if such other use will not interfere with the work on this program. Use of the real property or equipment on other projects will be in the following order of priority:

(1) Activities sponsored by DoD Components' grants, cooperative agreements, or other assistance awards;

(2) Activities sponsored by other Federal agencies' grants, cooperative agreements, or other assistance awards;

(3) Activities under Federal procurement contracts.

(4) Activities not sponsored by any Federal agency. If so used, use charges shall be assessed to those activities. For real property or equipment, the use charges shall be at rates equivalent to those for which comparable real property or equipment may be leased. The use charges shall be treated as program income.

(f) After Federal funding for the project ceases, or when the real property or equipment is no longer needed for the purposes of the project, the recipient may use the real property or equipment for other projects, insofar as:

(1) There are Federally sponsored projects for which the real property or equipment may be used. If the only use for the real property or equipment is for projects that have no Federal sponsorship, the recipient shall proceed with disposition of the real property or equipment, in accordance with paragraph (g) of this section.

(2) The recipient obtains written approval from the agreements officer to do so. The agreements officer shall ensure that there is a formal change of accountability for the real property or equipment to a currently funded, Federal award.

(3) The recipient's use of the real property or equipment for other projects is in the same order of priority as described in paragraph (e) of this section.

(g) Disposition. When an item of real property or equipment is no longer needed for Federally sponsored projects, the recipient shall proceed as follows:

(1) If the property that is no longer needed is equipment (rather than real property), the recipient may wish to replace it with an item that is needed currently for the project. In that case, the recipient may use the original equipment as trade-in or sell it and use the proceeds to offset the costs of the replacement equipment, subject to the approval of the Agreements Officer.

(2) The recipient may elect to retain title, without further obligation to the Federal Government, by compensating the Federal Government for that percentage of the current fair market value of the real property or equipment that is attributable to the Federal participation in the project, or

(3) The recipient may have an opportunity to retain title to the equipment provided the Government agrees to an exchange for financial resources, technical support, and/or deliverables that are of commensurate value to the Government. Examples include, but are not limited to the following:

- Direct purchase of the equipment by the contractor, with the terms and process for pricing the purchase established.
- Ongoing maintenance and insurance of the equipment.
- Guaranteed, continued government access to the equipment.
- Guaranteed, ongoing responsiveness to DoD requirements for products and services that require use of the equipment.
- Periodic reporting and data relating to the contractor's production capabilities and continued economic viability.

(4) If the recipient does not elect to retain title to real property or equipment (see paragraph (g)(2) of this section), or request approval to use equipment as trade-in or offset for replacement equipment (see paragraph (g)(1) of this section), the recipient shall request disposition instructions from the agreements officer.

3.042 INSURANCE COVERAGE (MAR 2007)

The Recipient shall insure and be liable for the loss, damage, and/or destruction of all real property and equipment acquired under this agreement with Federal funds. The Recipient shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired under this agreement, as provided to real property and equipment owned by the Recipient. The Recipient will immediately notify the Agreements Officer and DCMA authorities, as appropriate, in the event there is an incident of loss, damage, or destruction of the property.

3.050 PROPERTY MANAGEMENT (JUN 2001) (TAILORED)

The Recipient's property management system shall include the following, for property that is Federally owned, and for equipment that is acquired in whole or in part with Federal funds:

- (a) Property records shall be maintained, to include the following information:
 - (1) A description of the property.
 - (2) Manufacturer's serial number, model number, Federal stock number, national stock number, or any other identification number.
 - (3) Source of the property, including the award number.
 - (4) Whether title vests in the Recipient or the Federal Government.
 - (5) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.
 - (6) Information from which one can calculate the percentage of Federal participation in the cost of the property (not applicable to property furnished by the Federal Government).
 - (7) The location and condition of the property and the date the information was reported.
 - (8) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal Government for its share.
- (b) Federally owned equipment shall be marked, to indicate Federal ownership.
- (c) A physical inventory shall be taken and the results reconciled with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The Recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.
- (d) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of property shall be investigated and fully documented; if the property was owned by the Federal Government, the Recipient shall promptly notify the Federal agency responsible for administering the property.
- (e) Adequate maintenance procedures shall be implemented to keep the property in good condition.

3.062 PHASE AUTHORIZATION AND CRITERIA (JUL 2005)

The parties recognize that before entering additional phases for this effort, the Government will perform an assessment of the Recipient's performance, commitment, and viability. This assessment will take into account information obtained from agreement deliverables, program management reviews, technical interchange meetings, and cognizant DCMA/DCAA Offices. These assessments are meant to provide an overall review of the performance occurring in the current phase prior to negotiating the succeeding phase. Authorization to proceed to the next phase will be accomplished by a formal, written modification to the agreement. It is the intent of the Government for this program to be a success. Therefore, when issues arise that yield a negative assessment, and subsequently impede phase authorization, all attempts to mitigate the issue and establish a corrective action plan will be made in order to facilitate phase authorization.

4.011 COST PRINCIPLES - COMMERCIAL (APR 2000) (TAILORED)

Federal funds and funds counted as the Recipient's cost share or match shall be used only for costs that:

- (a) A reasonable and prudent person would incur, in carrying out the project contemplated by this agreement; and

(b) Are consistent with the purposes stated in the governing Congressional authorizations and appropriations.

4.021 STANDARDS FOR FINANCIAL MANAGEMENT SYSTEMS (APR 2000) (TAILORED)

The Recipient shall establish or use existing financial management systems that comply with Generally Accepted Accounting Principles (GAAP) and DoDGARs 34.11.

4.030 AUDIT (JUL 2003) (TAILORED)

(a) If the Recipient expends \$500,000 or more in one year under Federal awards they shall have an audit performed for that year by an independent auditor, in accordance with DoDGARs 34.16. The audit should be made a part of the regularly scheduled, annual audit of the Recipient's financial statements. However, the Recipient may have Federal awards separately audited, if it elects to do so unless prohibited by Federal laws or regulations.

(b) The Recipient shall provide a copy of the auditor's report to the Agreements Officer and the agreements administration office within 60 days after audit.

4.035 FIXED INDIRECT COST AGREEMENT (JAN 2008)

(a) The parties mutually agree to establish a fixed ceiling for indirect costs utilizing DCMA's accepted billing rates at time of award. Notwithstanding Article 4.011 Cost Principles of this agreement, indirect costs applicable to this award shall be obtained by applying the DCMA accepted billing rates, but shall not result in total Government expenditures exceeding the total Government cost share amount of \$XXXXXX.

(b) The DCMA accepted billing rates shall be utilized for billing and reporting costs against performance of this effort.

(1) If, after DCAA has conducted the final incurred indirect cost audit, it is determined that the final negotiated indirect rates incurred are lower than those used by the Recipient for billing purposes, the Recipient shall provide a credit to the Government for the difference under the monthly voucher within 60 days of final determination of the revised amount.

(2) If, after DCAA has conducted the final incurred indirect cost audit, it is determined that the final negotiated indirect rates incurred are higher than those used by the Recipient for billing purposes, those additional costs are to be added to the Recipient's cost share agreement amount. The Government shall not reimburse the Recipient for indirect costs resulting in total Government expenditures in excess of the Government approved cost share amount of \$XXXXXX for the period established herein.

(c) This fixed indirect cost agreement shall not change the total monetary ceiling for the Government, funding obligation or specific direct cost allowance or disallowance provided for in this TIA, or modify either parties' obligations and limitations specified in the TIA.

(d) The intent of this article is to place a ceiling on the Government's cost share amount in order to prevent contingent liabilities for the Government and to help the Title III program office manage their programs and maintain the program budget.

4.040 RETENTION AND ACCESS TO RECORDS - INCORPORATED BY REFERENCE (AUG 2001) (TAILORED)

Recipient's financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained and access to them permitted in accordance with DoDGARs 34.42.

4.051 ALLOTTED FUNDING - FULLY FUNDED (OCT 2001)

The following funds are allotted to this agreement:

| ACRNs | FUND CITATION(S) | AMOUNT |
|-------|------------------|--------|
|-------|------------------|--------|

4.070 PAYMENT - REIMBURSEMENT (APR 2000) (TAILORED)

(a) The Recipient's Billing Voucher shall be submitted on a monthly basis via a Standard Form (SF) 270 available at: <http://www.whitehouse.gov/omb/grants/sf270.pdf>. The initial voucher submission should occur within 25 calendar days after the close of the Recipient's monthly accounting period - nearest the end of the first Government fiscal year quarter after award. One copy of the SF270 (being submitted) shall be provided to each of the following persons as listed in the article entitled Administrative Responsibilities: Government Program Manager, Agreements Negotiator Point of Contact, Financial Management, and the Agreements Administrative Office. The SF 270 should be submitted through a Government electronic process (where possible). If not possible, submit the SF 270 via email and should contain:

1. A detailed breakout of costs by category and Statement of Work tasks for the reporting period covered under the submission.
2. The total amount of funds that have been billed to the Government by the Recipient.
3. The total amount of funds paid by the Government to the Recipient.
4. The amount of recipient cost share (if applicable) being contributed on this voucher.

Distribution Statement: In addition to any other required legend, make all data delivered under this agreement with the distribution statement located in Article 7.058.

(b) This award is subject to the electronic funds transfer (EFT) payment method. To be paid, the Recipient must submit a Payment Information Form (Standard Form (SF) 3881) to the payment office identified in the article entitled Administrative Responsibilities unless that payment office currently has the information (e.g. bank name and account number) needed to pay the Recipient by EFT. The SF-3881 is available at [http://contacts.gsa.gov/webforms.nsf/0/3772EB5D69D1B58085256A73005BE887/\\$file/sf3881.pdf](http://contacts.gsa.gov/webforms.nsf/0/3772EB5D69D1B58085256A73005BE887/$file/sf3881.pdf).

(c) Final payment will not be made until after receipt of an acceptable final report by the Government Program Manager.

4.080 PROGRAM INCOME - OTHER THAN RESEARCH (APR 2000) (TAILORED)

(a) All program income earned during the project period shall be used to finance the non-Government share of the project when approved by the Government.

(b) The Recipient has no obligation to the Government for program income earned after the end of the project period.

(c) The Recipient will have no obligation to the Government for program income earned from license fees and royalties for copyrighted material, patents patent applications, trademarks and inventions produced under the agreement.

(d) The Recipient may deduct costs associated with generating program income from gross income to determine program income, provided these costs are not charged to the agreement.

4.090 COST SHARING (AUG 2001) (TAILORED)

(a) The parties estimate that the development work under this agreement can only be accomplished with the Recipient aggregate resource contribution of \$XXXX through Phase X of this agreement. The Recipient agrees to provide the resources in the manner shown in the attached Cost Sharing Summary and Schedule. (Attachment 4) Failure of either party to provide its respective total

contribution may result in a unilateral modification to the agreement by the Agreements Officer to reflect a proportional reduction in funding for the other Party.

(b) The Recipient's contributions may count as cost sharing only to the extent that they comply with DoDGARs 34.13.

4.093 CONSIDERATION (JUN 2006)

(a) The Recipient agrees that the selling price to Federal agencies for XXX will not exceed the price paid by any of the Recipient's other customers for the same or similar product or component sold in the same quantities.

(b) If the Government purchases XXXs that the Recipient currently has in quantity production, the Recipient will charge the Government the lowest price paid by any purchaser of such XXX regardless of the quantity actually purchased by the Government.

(c) In no event shall such price be in excess of the Recipient's sale price to any other of their customers for the same item in like quantity, or the current market price, whichever is lower.

(d) The above stated stipulations shall remain in effect for a period of five years from the conclusion of this agreement.

5.010 CLAIMS, DISPUTES AND APPEALS (JUN 2001) (TAILORED)

(a) General. Parties shall communicate with one another in good faith and in a timely and cooperative manner when raising issues under this article. The Department of Defense's policy is to try to resolve all issues concerning agreements by mutual agreement at the Agreements Officer's level.

(b) Alternative Dispute Resolution (ADR): A mutually agreeable form of ADR may be utilized at any time to facilitate resolution of issues submitted under this article. ADR procedures are any voluntary means used to resolve issues in controversy without resorting to formal administrative appeals or litigation. ADR procedures may be initiated in lieu of submission of a written claim to the Agreements Officer or an appeal to the Grant Appeal Authority (GAA), or at any appropriate time during a dispute.

(c) Claims Resolution Process.

(1) Recipient Claims: Whenever disputes, disagreements, or misunderstandings arise, the parties shall attempt to resolve the issue(s) involved by discussion and mutual agreement as soon as practicable. Failing resolution by mutual agreement, the Recipient may submit to the Agreements Officer, in writing, the relevant facts, including all data that supports the claim, identifying unresolved issues and specifying the clarification or remedy sought. Within 60 days of receipt of the written claim or issue in dispute, the Agreements Officer shall either:

(i) Prepare a written decision on the issue, including the basis for the decision, or
(ii) Notify the Recipient of a specific date when he or she will render a written decision, if more time is required to do so. The notice will include the reason for delaying the decision.

(2) Government Claims: Government claims against a Recipient shall be the subject of a written decision by the Agreements Officer.

(3) Appeals: In the event the Recipient decides to appeal the decision of the Agreements Officer, they must do so within 90 days of receipt of the decision. The appeal must be submitted, in writing, to the Grant Appeal Authority (GAA). The GAA is AFRL/RX. The GAA shall conduct a review of the matter and render a decision in writing within 30 days of receipt of the written appeal. Any such decision is not subject to further administrative review and shall be final and binding.

(4) Non-exclusivity of Remedies. Nothing in this article is intended to limit a Recipient's right to any remedy under the law.

5.020 OMBUDSMAN (APR 2008)

(a) An ombudsman has been appointed to hear and facilitate the resolution of concerns from offerors, potential offerors, and others for this agreement. When requested, the ombudsman will maintain strict confidentiality as to the source of the concern. The existence of the ombudsman does not affect the authority of the program manager, contracting officer, or source selection official. Further, the ombudsman does not participate in the evaluation of proposals, the source selection process, or the adjudication of protests or formal contract disputes. The ombudsman may refer the party to another official who can resolve the concern.

(b) Before consulting with an ombudsman, interested parties must first address their concerns, issues, disagreements, and/or recommendations to the contracting officer for resolution. Consulting an ombudsman does not alter or postpone the timelines for any other processes (e.g., agency level bid protests, GAO bid protests, requests for debriefings, employee-employer actions, contests of OMB Circular A-76 <http://www.whitehouse.gov/omb/circulars/a076/a76_rev2003.pdf> competition performance decisions).

(c) If resolution cannot be made by the contracting officer, concerned parties may contact the AFRL ombudsmen, Ms. Karen Sue Hunter, Director of Contracting, AFRL/PK, at (937) 255-0432, or by e-mail to Karen.Hunter@wpab.af.mil <<mailto:Karen.Hunter@wpab.af.mil>>. Concerns, issues, disagreements, and recommendations that cannot be resolved at the AFRL level, may be brought by the concerned party for further consideration to the Air Force ombudsman, Associate Deputy Assistant Secretary (ADAS) (Contracting), SAF/AQC, 1060 Air Force Pentagon, Washington DC 20330-1060, phone number (703) 588-7004, facsimile number (703) 588-1067.

(d) The ombudsman has no authority to render a decision that binds the agency.

(e) Do not contact the ombudsman to request copies of the solicitation, verify offer due date, or clarify technical requirements. Such inquiries shall be directed to the Contracting Officer.

6.010 PATENT INFRINGEMENT (APR 2000) (TAILORED)

The Recipient agrees not to hold the U.S. Government responsible for any and all patent infringement cases that may arise under any research projects conducted under this agreement. In addition, the Recipient shall indemnify the Government against all claims and proceedings for actual or alleged direct or contributory infringement of, or inducement to infringe, any U.S. or foreign patent, trademark, or copyright arising under this agreement and the Recipient shall hold the Government harmless from any resulting liabilities and losses provided the Recipient is reasonably notified of such claims and proceedings.

6.020 INVENTIONS (JUN 2001) (TAILORED)

(a) Definitions

(1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

(2) "Subject invention" means any invention of the Recipient conceived or first actually reduced to practice in the performance of work under this agreement, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of agreement performance.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in

each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(5) "Small Business Firm" means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this article, the size standards for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) Allocation of Principal Rights

(1) The Recipient may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this article and 35 U.S.C. 203. With respect to any subject invention in which the Recipient retains title, the Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) Invention Disclosure, Election of Title and Filing of Patent Application by Recipient

(1) The Recipient will disclose each subject invention to the Government within 2 months after the inventor discloses it in writing to Recipient personnel responsible for patent matters. The disclosure to the Government shall be in the form of a written report and shall identify the agreement under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the Government, the Recipient will promptly notify the Government of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Recipient.

(2) The Recipient will elect in writing whether or not to retain title to any such invention by notifying the Government within 2 years of disclosure to the Government. However, in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the Government to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Recipient will file its initial patent application on a subject invention to which it elects to retain title within 1 year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Recipient will file patent applications in additional countries or international patent offices within either 10 months of the corresponding initial patent application or 6 months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure, election, and filing under subparagraphs (1), (2), and (3) may, at the discretion of the Government, be granted.

(d) Conditions When the Government May Obtain Title

The Recipient will convey to the Government, upon written request, title to any subject invention--

(1) If the Recipient fails to disclose or elect title to the subject invention within the times specified in (c), above, or elects not to retain title; provided that the Government may only request title within 60 days after learning of the failure of the Recipient to disclose or elect within the specified times.

(2) In those countries in which the Recipient fails to file patent applications within the times specified in (c) above; provided, however, that if the Recipient has filed a patent application in a country after the times specified in (c) above, but prior to its receipt of the written request of the Government, the Recipient shall continue to retain title in that country.

(3) In any country in which the Recipient decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) Minimum Rights to Recipient and Protection of the Recipient Right to File

(1) The Recipient will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Recipient fails to disclose the invention within the times specified in (c), above. The Recipient's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Recipient is a party and includes the right to grant sublicenses of the same scope to the extent the Recipient was legally obligated to do so at the time the agreement was awarded. The license is transferable only with the approval of the Government except when transferred to the successor of that party of the Recipient's business to which the invention pertains.

(2) The Recipient's domestic license may be revoked or modified by the Government to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and Government licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the Recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the Government to the extent the Recipient, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the Government will furnish the Recipient a written notice of its intention to revoke or modify the license, and the Recipient will be allowed 30 days (or such other time as may be authorized by the Government for good cause shown by the Recipient) after the notice to show cause why the license should not be revoked or modified. The Recipient has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and Government regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

(f) Recipient Action to Protect the Government's Interest

(1) The Recipient agrees to execute or to have executed and promptly deliver to the Government all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Recipient elects to retain title, and (ii) convey title to the Government when requested under paragraph (d) above and to enable the Government to obtain patent protection throughout the world in that subject invention.

(2) The Recipient agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Recipient each subject invention made under an agreement in order that the Recipient can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1), above. The Recipient shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Recipient will notify the Government of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than 30 days before the expiration of the response period required by the relevant patent office.

(4) The Recipient agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with Government support under (identify the agreement) awarded by (identify the Federal Agency). The Government has certain rights in the invention."

(g) Lower Tier Agreements

The Recipient will include this article, suitably modified to identify the parties, in all lower tier agreements, regardless of tier, for experimental, developmental or research work. Each subrecipient will retain all rights provided for the Recipient in this article, and the Recipient will not, as part of the consideration for awarding a subrecipient award, obtain rights in a subrecipient's subject inventions.

(h) Reporting on Utilization of Subject Inventions

The Recipient agrees to submit, on request, periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Recipient or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Recipient, and such other data and information as the Government may reasonably specify. The Recipient also agrees to provide additional reports as may be requested by the Government in connection with any march-in proceeding undertaken by the Government in accordance with paragraph (j) of this article. As required by 35 U.S.C. 202(c)(5), the Government agrees it will not disclose such information to persons outside the Government without permission of the Recipient.

(i) Preference for United States Industry

Notwithstanding any other provision of this article, the Recipient agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Government upon a showing by the Recipient or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) March-in Rights

The Recipient agrees that with respect to any subject invention in which it has acquired title, the Government has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the Government to require the Recipient, an assignee or exclusive licensee

of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Recipient, assignee, or exclusive licensee refuses such a request the Government has the right to grant such a license itself if the Government determines that:

(1) Such action is necessary because the Recipient or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Recipient, assignee or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Recipient, assignee or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this article has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

(k) Special Provisions for Agreements with Nonprofit Organizations

If the Recipient is a nonprofit organization, it agrees that:

(1) Rights to a subject invention in the United States may not be assigned without the approval of the Government, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the Recipient;

(2) The Recipient will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the Government deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;

(3) The balance of any royalties or income earned by the Recipient with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and

(4) It will make efforts that are reasonable under the circumstances to attract licensees of subject invention that are small business firms and that it will give a preference to a small business firm when licensing a subject invention if the Recipient determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the Recipient is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Recipient. However, the Recipient agrees that the Secretary may review the Recipient's licensing program and decisions regarding small business applicants, and the Recipient will negotiate changes to its licensing policies, procedures, or practices with the Secretary when the Secretary's review discloses that the Recipient could take reasonable steps to implement more effectively the requirements of this paragraph (k)(4).

(l) Communication

The point of contact on matters relating to this article will be the servicing Staff Judge Advocate's office identified in the article entitled Administrative Responsibilities.

6.022 DATA RIGHTS (AUG 2001) (TAILORED)

(a) Definitions

"Government purposes", as used in this article, means any activity in which the United States Government is a party, including cooperative agreements with international or multinational defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose data for commercial purposes or authorize others to do so.

"Government purpose rights", as used in this article, means the right to -

(1) Use, modify, reproduce, release, perform, display, or disclose technical data within the Government without restriction; and

(2) Release or disclose technical data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for United States government purposes.

"Unlimited rights", as used in this article, means rights to use, modify, reproduce, perform, display, release, or disclose data in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

"Data", as used in this article, means recorded information, regardless of form or method or recording, which includes but is not limited to, technical data, software, trade secrets, and mask works. The term does not include financial, administrative, cost, pricing or management information and does not include subject inventions included under the article entitled Inventions.

"Practical application", as used in this article, means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

(b) Allocation of Principal Rights

(1) Ownership rights to data generated under this agreement shall vest in the Recipient. This agreement shall be performed with mixed Government and Recipient funding and the parties agree that in consideration for Government funding, the Recipient intends to reduce to practical application items, components and processes developed under this agreement.

(2) The Recipient agrees to retain and maintain in good condition until 3 years after completion or termination of this agreement, all data necessary to achieve practical application. In the event of exercise of the Government's march-in rights as set forth under the Article entitled Inventions, the Recipient agrees, upon written request from the Government, to deliver at no additional cost to the Government, all data necessary to achieve practical application within 60 days from the date of the written request. The Government shall have unlimited rights to this delivered data.

(3) With respect to data delivered pursuant to Part 7 of this agreement, Technical and Financial Reporting, the Government shall receive Government purpose rights.

(c) Marking of Data.

(1) Pursuant to subparagraph (b)(3) above, any data delivered under this agreement shall be marked with the following legend:

Government Purpose Rights

Agreement No.:

Recipient's Name:

Recipient's Address:

The Government may use, modify, reproduce, release, perform, display or disclose these data within the Government without restriction, and may release or disclose outside the Government and authorize persons to whom such release or disclosure has been made to use, modify, reproduce, release, perform, display or disclose that data for United States Government purposes, including competitive procurement.

(2) Any trade secrets and commercial or financial information the recipient wishes to protect from release under Freedom Of Information Act (FOIA) requirements must be marked with a legend identifying it as privileged or confidential information.

(d) Lower Tier Agreements. The Recipient shall include this article, suitably modified to identify the parties, in all subcontracts or lower tier agreements, regardless of tier, for experimental, developmental, or research work.

6.030 FOREIGN ACCESS TO TECHNOLOGY (APR 2000) (TAILORED)

(a) Definitions

"Foreign firm or institution" means a firm or institution organized or existing under the laws of a country other than the United States, its territories, or possessions. The term includes, for purposes of this agreement, any agency or instrumentality of a foreign government, and firms, institutions or business organizations which are owned or substantially controlled by foreign governments, firms, institutions, or individuals.

"Know-how" means all information including, but not limited to, discoveries, formulas, materials, inventions, processes, ideas, approaches, concepts, techniques, methods, software, programs, documentation, procedures, firmware, hardware, technical data, specifications, devices, apparatus and machines.

"Technology" means discoveries, innovations, know-how and inventions, whether patentable or not, including computer software, recognized under U.S. law as intellectual creations to which rights of ownership accrue, including, but not limited to, patents, trade secrets, mask works, and copyrights developed under this agreement.

(b) General. The Parties agree that technology developments involving XXXXXXXXXXXXXXXXXXXXXXXX may constitute a significant enhancement to the national defense, and to the economic vitality of the United States. Accordingly, access to important technology developments under this agreement by foreign firms or institutions must be carefully controlled. The controls contemplated in this article are in addition to, and are not intended to change or supersede, the provisions of the International Traffic in Arms Regulation (22 CFR pt. 120 et seq.), the DOD Industrial Security Regulation (DOD 5220.22-R) and the Department of Commerce Export Regulation (15 CFR pt. 770 et seq.)

(c) Restrictions on Sale or Transfer of Technology to Foreign Firms or Institutions.

(1) In order to promote the national security interests of the United States and to effectuate the policies that underlie the regulations cited above, the procedures stated in subparagraphs C.2, C.3, and C.4 below shall apply to any transfer of technology. For purposes of this paragraph, a transfer includes a sale of the company, and sales or licensing of technology. Transfers do not include:

- (i) sales of products or components, or

(ii) licenses of software or documentation related to sales of products or components, or

(iii) transfer to foreign subsidiaries of the recipient (recipient participants) for purposes related to this agreement, or

(iv) transfer which provides access to technology to a foreign firm or institution which is an approved source of supply or source for the conduct of research under this agreement provided that such transfer shall be limited to that necessary to allow the firm or institution to perform its approved role under this agreement.

(2) The Recipient shall provide timely notice to the Government of any proposed transfer from the recipient of technology developed under this agreement to foreign firms or institutions. If the Government determines that the transfer may have adverse consequences to the national security interests of the United States, the Recipient, its vendors, and the Government shall jointly endeavor to find alternatives to the proposed transfer which obviate or mitigate potential adverse consequences of the transfer but which provide substantially equivalent benefits to the Recipient.

(3) In any event, the Recipient shall provide written notice to the Agreements Officer and Government Program Manager of any proposed transfer to a foreign firm or institution at least 60 days prior to the proposed date of transfer. Such notice shall cite this article and shall state specifically what is to be transferred and the general terms of the transfer. Within 30 days of receipt of the Recipient's written notification, the Agreements Officer shall advise the Recipient whether it consents to the proposed transfer. In cases where the Government does not concur or 60 days after receipt and the Government provides no decision, the Recipient may utilize the procedures under the article entitled Claims, Disputes and Appeals. No transfer shall take place until a decision is rendered.

(4) Except as provided in subparagraph C.1 above and in the event the transfer of technology to foreign firms or institutions is not approved by the Government, but the transfer is made nonetheless, the Recipient shall (a) refund to the Government the funds paid for the development of the technology and (b) negotiate a license with the Government to the technology under terms that are reasonable under the circumstances.

(d) Lower Tier Agreements. The Recipient shall include this article, suitably modified to identify the Parties, in all subcontracts or lower tier agreements, regardless of tier, for experimental, development, or research work.

(e) This article shall remain in effect during the term of the agreement and for five years thereafter.

7.040 FINAL REPORT (JUN 2001) (TAILORED)

(a) The Final Report shall be submitted within 60 days of the end of the technical effort. Two copies of the report shall be provided to the following person(s) listed in the article entitled Administrative Responsibilities: Government Program Manager. The technical portion of the report should be suitable for publication and is to provide a recap of the program and program accomplishments. With the approval of the Government Program Manager, reprints of published articles may be submitted or attached to the technical portion of the Final Report. The business portion of the report shall contain separate discussion of total cost incurred, total costs contributed by each Recipient member with an explanation for any deviation from the original business plan.

(b) The report shall be tailored to include the official Title III / OSD emblem to be placed in the upper right hand corner of the front cover with affected entries adjusted as required (AFRL will supply a copy of the emblem). Draft report shall be unbound, in standard size type, double-spaced and singlesided. Reproducible shall be 1) camera ready, unbound, suitable for offset reproduction, and 2) on 3.5" floppy disk (or CD-ROM, or ZIP drive disk) compatible with MS-Office for Windows, and both shall incorporate all changes made in the corrected draft. All photos shall be glossy finished. Submit the reproducible(s) with the final corrected version only.

(c) The Recipient is reminded that the National Industrial Security Program Operating Manual, DOD 5220.22-M, Chapter 4, Paragraph 4-208(a), dated January 1995 requires that records be maintained when documents derive classified from multiple sources.

(d) The Recipient shall receive approval/disapproval by letter from the Air Force Program Manager within 30 days after receipt of Air Force comments. Disapproval requires correction/resubmission within 30 days after receipt of Air Force comments.

(e) The Final Report submission to the Government is exempt from disclosure requirements of 5 U.S.C. 552 (Freedom of Information Act - Exemption 4 thereunder) for a period of five years from the date identifying the documents as being submitted on a confidential basis.

Distribution Statement. In addition to any other required legend, mark all data delivered under this agreement with the distribution statement located in Article 7.058 below.

7.050 FUNDS AND MANHOUR EXPENDITURE REPORT (SEP 2005)

(a) The Funds Manhour Expenditure Report shall be submitted on a monthly basis. First submission shall commence at the close of the recipient's monthly accounting period. One copy of the Report shall be provided to the following persons listed in the article entitled Administrative Responsibilities: Government Program Manager, Agreements Negotiator, Financial Management, and Agreements Administration Office. Report may be submitted via e-mail.

This report shall contain the following:

(1) A tabular listing of funding and man-hour expenditures inclusive of the reporting period compared to original baseline values, including to-completion estimates,

(2) A graphical plot of planned versus actual funding expenditures to include Government and Cost Share Funding, and

(3) A graphical plot of planned and actual percentage of work completed.

(b) Each task, job-order, sub-task, or unit of work will be separately addressed. If schedule or milestone reporting is also a reporting requirement under the agreement, the breakdown of work task elements should be consistent with that reporting. Attachment 3, entitled "Funds and Manhour Report" is provided for use in meeting this requirement.

(c) The report identified in paragraph a. above, shall contain the following data elements:

(1) Original Negotiated Agreement - A summary of all cost elements associated with the original negotiated agreement. This is defined as the Recipient's original cost proposal, as negotiated and accepted by the Government. It is that cost as it appears on the original award document. Its elements shall contain that cost estimate breakdown by category (i.e., direct labor (Sr. Engineer, Jr. Engineer, draftsman, engineering shop, etc), burden/overhead, material/parts, travel, subsistence, fringe, General and Administrative (G&A) fee, outstanding commitments, etc.), as provided in the accepted proposal. Items and amounts specified in this entry shall remain constant on successive reports during the term of the award.

(2) Latest Negotiated Agreement Changes - A summary of the latest negotiated agreement changes. It shall be a recapitulation of the Original Negotiated Agreement data elements provided above reflecting all subsequent changes resulting from agreement modifications. Breakdown by category shall be as provided in Original Negotiated Agreement unless altered by a agreement modification. Indicate "none" if revised proposals have no effect.

(3) Reporting Period Expenditures - Expenditure data for the current reporting period for the work task categories used in Original Negotiated Agreement and Latest Negotiated Agreement Changes (as applicable), and covering man hours, funds, and the change (new orders minus fulfilled orders) in outstanding commitments.

(4) Cumulative Expenditure to Date - Cumulative man hour, funds and outstanding commitments expenditure data through the current reporting period for the work task categories used in Original Negotiated Agreement and Latest Negotiated Agreement Changes (as applicable). Additionally, show the cumulative costs as a percentage of those costs.

(5) Estimated Cost-to-Complete - The estimated costs required to complete the work task from the reporting date to the date of completion. This estimate shall be defined by categories as the appear in Original Negotiated Agreement and Latest Negotiated Agreement Changes. All estimates shall be justified.

(6) Latest cost estimate - An estimate of the final total cost at completion of the work effort. This is derived from Cumulative Expenditure to Date and Estimated Cost-to-Complete. Deviations between the original award and/or latest negotiated award change shall be justified/explained in footnote remarks.

(d) The Funds Expenditure Graph identified in paragraph b. above, shall contain the following:

The graph shall be reproducible to enable periodic changes reflecting current award funding status to be entered. The graph shall portray, on a periodic basis, the planned versus actual total dollar expenditures and the percentage of the total award dollars that the expenditure represents.

(e) The Work Completed Graph identified in paragraph c. above, shall contain the following:

A Work Completed Graph shall reflect the percentage of work completed by the awardee through the current reporting period. The graph shall plot actual completion versus planned completion, and shall be maintained current and be fully legible and reproducible.

Distribution Statement. In addition to any other required legend, mark all data delivered under this agreement with the distribution statement located in Article 7.058 below.

7.052 RECIPIENT'S PROGRESS, STATUS AND MANAGEMENT REPORT (SEP 2005)

The Recipient's Progress, Status and Management Report shall be submitted on a quarterly basis. First submission shall commence at the close of the Recipient's quarterly accounting period. The report can be tailored to allow Recipient's format. One copy each shall be provided to the following persons as listed in the article entitled, Administrative Responsibilities: Government Program Manager. Report may be submitted via e-mail.

This report shall contain the following:

(a) A front cover sheet, which includes the Recipient's name and address, the agreement number, the name of the program, the date of the report, the period covered by the report, the title of the report, the security classification and the name of the issuing Government activity.

(b) Description of the progress made against milestones during the reporting period.

(c) Results, positive or negative, obtained related to previously identified program areas, with conclusions and recommendations.

(d) Any significant changes to the Recipient's organization or method of operation, to the project management network, or to the milestone chart.

(e) Problem areas affecting technical or scheduling elements, with background and any recommendations for solutions beyond the scope of the agreement.

- (f) Problem areas affecting cost elements, with background and any recommendations for solutions beyond the scope of the agreement.
- (g) Any trips and significant results.
- (h) Agreement schedule status.
- (i) Plans for activities during the following reporting period.
- (j) Name and telephone number of preparer of the report.
- (k) Appendices for any necessary tables,, references, photographs, illustrations, and charts.
- (l) A Gantt chart in Microsoft Project or other available software to include:
 - (i) Tasks and subtasks
 - (ii) Milestones,
 - (iii) Equipment milestones on material delivery, payment schedule, and installation dates,
 - (iv) Percent of work complete for each task and subtask.

Distribution Statement. In addition to any other required legend, mark all data delivered under this agreement with the distribution statement located in Article 7.058 below.

7.053 INTERIM PHASE REPORT (JUN 2005)

The Interim Phase Report shall be submitted within 30 days after conclusion of each phase. The interim phase report may substitute as the final report only if the agreement ends after completion of the initial phase. The report can be tailored to allow the Recipient's format. Two copies of the report shall be provided to the following persons listed in the article entitled Administrative Responsibilities: Government Program Manager. Report may be submitted via e-mail.

The Interim Phase Report shall detail technical and business progress to date and report on all problems, technical issues or major developments during the reporting period.

The Recipient shall receive approval or disapproval by letter from the Air Force Program Manager within 30 days after receipt. Disapproval requires correction/resubmission within 30 days after receipt of Air Force comments. Submit reproducible on media compatible with MS-Office for Windows.

Distribution Statement: In addition to any other required legend, mark all data delivered under this agreement with the distribution statement located in Article 7.058 below.

7.054 STRATEGIC BUSINESS PLAN (SEP 2005)

(a) The Strategic Business Plan shall be submitted 12 months after award and every 12 months thereafter for the life of the agreement. Attachment 2 may be used as an outline for the topic areas to be addressed in the report. The report can be tailored to allow the Recipient's format. One copy of the report shall be provided to the following persons listed in the article entitled Administrative Responsibilities: Government Program Manager.

(b) Report may be submitted via e-mail. The Recipient shall receive approval or disapproval by letter from the Air Force Program Manager within 30 days after receipt. Disapproval requires correction/resubmission within 30 days after receipt of Air Force comments. Submit reproducible on media compatible with MS-Office for Windows.

(c) Strategic Business Plan submissions to the Government are exempt from disclosure requirements of 5 U.S.C. 552 (Freedom of Information Act - Exemption 4 thereunder) for a period of five years from the date the Department receives the information. The Recipient shall mark such information with a legend identifying the documents as being submitted on a confidential basis.

Distribution Statement: In addition to any other required legend, mark all data delivered under this agreement with the distribution statement located in Article 7.058 below.

7.057 PRESENTATION MATERIAL (APR 2005)

Presentation Material shall be submitted after each briefing or review as appropriate. The maximum quantity of view graphs shall not exceed 250 per presentation. If requested, the Government may remove any Recipient insignia, trade names or symbols from presentation material. One electronic copy (via email or CD) shall be provided to the following persons as listed in the article entitled Administrative Responsibilities: Government Program Manager. Submit reproducible in a PowerPoint file on media compatible with MS-Office for Windows.

If requested, some presentation material shall include text information in sufficient detail to explain key points pertaining to the individual chart(s). The text shall include the following statement: "The publication of this material does not constitute approval by the Government of the findings or conclusion herein. Wide distribution or announcement of this material shall not be made without specific approval by the sponsoring Government activity."

Distribution Statement: In addition to any other required legend, mark all data delivered under this agreement with the distribution statement located in Article 7.058 below.

7.058 DISTRIBUTION STATEMENT (AUG 2007)

DISTRIBUTION STATEMENT B. Distribution authorized to U.S Government agencies and approved DoD contractors functioning as technical advisors to the Government Title III program team. The approved contractors are Northrop Grumman Technical Services and its subcontractors. Other requests shall be referred to Air Force Research Laboratory, 2977 Hobson Way, Building 653, Wright-Patterson AFB, OH 45433-7746.

All non-government personnel having access to data obtained/created/developed under this agreement will be required to sign non-disclosure agreements.

This statement may be used on unclassified and classified technical documents.

7.060 MARKETING PLAN (JUN 2006)

(a) The Marketing Plan shall be submitted 12 months after award and every 12 months thereafter for the life of the agreement, if additional phases are awarded. Timing for submission of the annual reports shall coincide with the established annual corporate market planning. The report can be tailored to for allow Recipient's desired format. Attachment 5 hereto is provided to guide the Recipient in the level of detail required. One copy each shall be provided to the following persons as listed in the article entitled Administrative Responsibilities: Government Program Manager.

(b) The report may be submitted via e-mail. The Recipient shall receive approval or disapproval by letter from the Air Force Program Manager within 30 days after receipt. Disapproval requires correction/resubmission within 30 days after receipt of Air Force comments. Submit reproducible on media compatible with MS-Office for Windows.

(c) Marketing Plan submissions to the Government are exempt from disclosure requirements of 5 U.S.C. 552 (Freedom of Information Act - Exemption 4 thereunder) for a period of five years from the date the Department receives the information. The Recipient shall mark such information with a legend identifying the documents as being submitted on a confidential basis.

Distribution Statement: In addition to any other required legend, mark all data delivered under this agreement with the distribution statement located in Article 7.058 above.

7.061 DISCLOSURE OF INFORMATION (MAY 2005)

(a) The Recipient shall not release to anyone outside the Recipient's organization any unclassified information, regardless of medium (e.g., film, tape, document, media announcements, etc.), pertaining to any part of this agreement or any program related to this agreement, unless-

- (1) The Agreements Officer has given prior written approval; or
- (2) The information is otherwise in the public domain before the date of release.

(b) Requests for approval shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Recipient shall submit its request to the Contracting Officer at least 65 days before the proposed date for release.

(c) The Recipient agrees to include a similar requirement in each sub-agreement under this agreement. Sub-recipients shall submit requests for authorization to release through the prime Recipient to the Agreements Officer.

8.020 ADMINISTRATIVE REQUIREMENTS FOR SUBAWARDS AND CONTRACTS (APR 2000) (TAILORED)

(a) The Recipients shall apply to each subaward the administrative requirements of the DoDGARs applicable to the type of subrecipient. DoDGARs Part 32 shall be applied to awards to universities or other nonprofit organizations, DoDGARs Part 33 shall be applied to awards to state and local governments, and DoDGARs Part 34 shall be applied to for-profit entities.

(b) Recipients awarding contracts under this agreement shall assure that contracts awarded contain, as a minimum, the provisions in Appendix A to DoDGARs Part 34.

8.031 PROCUREMENT STANDARDS (AUG 2001) (TAILORED)

The Recipient will:

(a) Follow basic principles of business intended to produce rational decisions and fair treatment in all contracts entered into under this agreement.

(b) Comply with federal statutes, executive orders, regulations, and other legal requirements applicable to contracts entered into under this agreement.

8.041 CLOSEOUT (AUG 2001) (TAILORED)

(a) The cognizant Administrative Agreements Officer shall, at least 60 days prior to the expiration date of the award, contact the Recipient to establish
:

(1) All steps needed to close out the award, including submission of financial and performance reports, liquidation of obligations, and decisions on property disposition.

(2) A schedule for completing those steps.

(b) The following provisions shall apply to the closeout:

(1) The responsible Agreements Officer and payment office shall expedite completion of steps needed to close out awards and make prompt, final payments to a Recipient for allowable reimbursable costs under the award being closed out.

(2) The Recipient shall promptly refund any unobligated balances of cash that the DoD Component has advanced or paid and that is not authorized to be retained by the Recipient for use in other projects. For unreturned amounts that become delinquent debts see DoDGARs 22.820.

(3) The Agreements Officer may make a settlement for any downward adjustments to the Federal share of costs after closeout reports are received.

(4) The Recipient shall account for any real property and personal property acquired with Federal funds or received from the Federal Government in accordance with the terms of the agreement.

(5) If a final audit is required and has not been performed prior to the closeout of an award, the DoD Component shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

(c) The closeout of an award does not affect any of the following:

(1) The right of the Department of Defense to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the Recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Any specified audit requirements.

(4) Any specified property management requirements.

(5) Records retention as required by the agreement.

(d) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of the Agreements Officer and the Recipient, provided the responsibilities of the Recipient referred to in the agreement, including those for property management as applicable, are considered and provisions made for continuing responsibilities of the Recipient, as appropriate.

9.013 ASSURANCES (FEB 2001) (TAILORED)

(a) By signing or accepting funds under the agreement, the Recipient assures that it will comply with applicable provisions of the following National policies on:

(1) Prohibiting discrimination:

(i) On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), as implemented by DoD regulations at 32 CFR part 195;

(ii) On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) as implemented by Department of Health and Human Services regulations at 45 CFR part 90;

(iii) On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56;

(2) The Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S. 1251, et seq.), as implemented by Executive Order 11738 (3 CFR, 1971-1975 Comp., p. 799).

(b) The Recipient shall obtain assurances of compliance from contractors and recipients at lower tiers.

9.020 U.S. FLAG AIR CARRIERS (NOV 1999) (TAILORED)

Travel supported by U.S. Government funds under this agreement shall use U.S.-flag air carriers (air carriers holding certificates under 49 U.S.C. 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942. (See General Services Administration amendment to the Federal Travel Regulations, Federal Register (Vol 63, No. 219, 63417-63421.))

| <u>ATTACHMENTS</u> | <u>PGS</u> | <u>DATE</u> | <u>TITLE</u> |
|--------------------|------------|-------------|-----------------------------------|
| ATTACHMENT 1 | TBD | 29 JAN 2008 | STATEMENT OF WORK |
| ATTACHMENT 2 | TBD | 03 JAN 2008 | STRATEGIC BUSINESS PLAN OUTLINE |
| ATTACHMENT 3 | TBD | 03 JAN 2008 | FUNDS AND MANHOUR REPORT |
| ATTACHMENT 4 | TBD | 03 JAN 2008 | COST SHARING SUMMARY AND SCHEDULE |
| ATTACHMENT 5 | TBD | 03 JAN 2008 | MARKETING PLAN OUTLINE |

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Attachment 1

XX Month XXXX

Title III Statement of Work

STRATEGIC BUSINESS PLAN OUTLINE

This document outlines topics that should be addressed within the strategic business plan. Bulleted sub-topics provide additional guidance regarding areas that may be included, as deemed appropriate, by the author(s) of the strategic business plan. For guidance purposes only, representative page length information has been included adjacent to each topic area.

EXECUTIVE SUMMARY - brief introduction to the business plan [1-3 pgs]

- Mission Statement
- Objectives, Expected Accomplishments (top-level)
- Highlights of Business Plan (“bottom line”)

BUSINESS OVERVIEW - overview of the company presenting the business plan [2-4 pgs]

- History of the Business (also include any new developments of the business, e.g., mergers, acquisitions, etc.)
- Description of the Business
- Legal Form (sole proprietorship, corporation, etc.)
- Location and Facilities (size, accessibility, own/lease, etc.)

BUSINESS GOALS - discussion of the short and long term goals of the company [2-4 pgs]

- One Year/Near-Term Goals (specific goals including gross sales, profit margins, market share, expansion plans, new product development, etc.)
- Longer-Term Goals (Return on Investment, net worth, etc.)

INDUSTRY ANALYSIS - assessment of the industry in general (without specific regard to the company itself other than its competitive role in the industry) [4-10 pgs]

- History of Industry
- Market Need for the Business
- Industry Size (current and future projections in unit and dollar measures)
- Industry Outlook and Growth Potential (trends, new product developments, etc.)
- Customer Analysis (types, requirements, power, etc.)
- Competition Analysis (market share, strengths and weaknesses, profitability, quality, performance, technology, marketing strategy, pricing, etc.)
- Degree of Competitive Rivalry
- Integration Analysis (forward, backward, partial)
- Distribution Patterns
- Mobility Barriers (economies of scale, product differentiation, capital requirements, cost disadvantages independent of size, access to distribution channels, government policy, etc.)
- Supplier Relationships
- Availability of Substitute Products/Materials
- Critical Success Factors

ENVIRONMENTAL ANALYSIS - assessment of current and future environments [2-5 pgs]

- Economic/Business Cycles
- Cultural/Social Factors
- Political Issues
- Demographic Issues
- Technological Issues
- Intellectual Property Rights (patents, proprietary status, etc.)
- Regulatory Issues
- International Business Issues
-

PRODUCT ANALYSIS - discussion of the company's product offering(s) and related issues [3-5 pgs]

- Product Description (brief)
- Product Advantages and Disadvantages
- Sourcing
- Quality Control
- Technology and R&D
- Intellectual Property (patents, proprietary status, etc.)
- Product Performance Data
- Competitive Comparison (cost structure, features, price, etc.)
- Value-Added Considerations
- Product Line Profitability Analysis (sensitivity analysis of product line costs, expense element relationships, trend analysis)
- Future Products/Services

MARKETING ANALYSIS - strategic summary of the company's marketing plan (3-5 pgs)

- Overall Objectives and Strategy
- Your Company Image
- Product Strategy
- Pricing Strategy
- Promotion Strategy
- Sales Strategy
- Distribution Strategy
- Guarantees, Warranties, and Services

SALES FORECAST - current and future sales projections [3-5 pgs]

- Monthly Forecast for Coming Year (units and dollars)
- Annual Forecast for Coming and Future Years (units and dollars)
- Assumptions and Sources for Forecasts

MANUFACTURING ANALYSIS - strategic summary of the company's manufacturing operations and related issues [3-6 pgs]

- Description of Process (brief)

- Physical Facilities Requirements
- Minimum Efficient Scale Facilities
- Machinery and Equipment Requirements
- Raw Materials Requirements (availability, quality, sources, etc.)
- Inventory Requirements (method of control, turnover rates, levels, etc.)
- Personnel Required (full/part-time, skill level, availability, training level, etc.)
- Experience/Learning Curve Analysis
- Resource Utilization Analysis

MANAGEMENT ANALYSIS - strategic summary of the company's management and related issues [2-5 pgs]

- Organizational Structure
- Organizational Chart with Reporting Relationships
- Duties and Responsibilities of Key Personnel
- Management Team with Background of Key Management Personnel
- Management Team Gaps
- Personnel Plan with Future Human Resource Requirements

FINANCIAL ANALYSIS - detailed analysis of the company's financial position [3-6 pgs]

- Discounted Cash Flow Analysis
- Break-Even Analysis
- Balance Sheets (monthly for coming year, annual for following two years)
- Income Statements (monthly for coming year, annual for following two years)
- Comparative Ratio Analysis

FINANCIAL PLAN - strategic summary of the company's financial position [2-5 pgs]

- Summary of Financial Position
- Industry Comparison
- Sources and Uses of Capital (Current and Future)
- Assumptions

STRATEGIC PLAN SUMMARY- overall strategy the company intends to pursue [2-5 pgs]

- Action Plan for Achieving Short and Long Term Goals
- Method and Schedule for Measuring Progress
- Applicable Programs
- Relevant Policies

RISK ANALYSIS – Identification of possible threats to the company's plan with analysis describing mitigation options [2-5 pgs]

- Description of Risks
 - * competitive actions and reactions
 - * external factors (strikes, recession, new technology, natural disaster, new competition, supplier problems, etc.)

- * internal factors (sales much higher or lower than anticipated, loss of key personnel, etc.)
- Contingency Plans

APPENDICES - Exhibits, charts, graphs, spreadsheets, etc. detailing information presented in the body of the strategic business plan

- Management Team Resumes/Biographies
- Duties and Responsibilities of Key Positions
- Price Lists
- Inventory Listing
- List of Fixed Assets
- Annual Report
- Promotional Materials
- Media, Articles, etc.

Funds and Manhour Expenditure Report - Attachment 3
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[illegible]

Cost Matching Summary and Schedule

The Recipient agrees to cost share or match as shown below. This Schedule may be amended annually to reflect changes or updates resulting from the annual program planning process.

1. Contributions Summary:

| | | |
|------------------|----|---|
| Cash | \$ | 0 |
| In-Kind | \$ | 0 |
| IR&D | \$ | 0 |
| Total Cost Share | \$ | 0 |

2. Cost Match Contribution Schedule

| | <u>2006</u> | <u>Total</u> |
|------------|-------------|--------------|
| Cash: | \$ 0 | \$ 0 |
| In-Kind: | \$ 0 | \$ |
| Total | | |
| Cost Share | \$ 0 | |

MARKETING PLAN OUTLINE

This document outlines topics that should be addressed within the strategic marketing plan. Bulleted sub-topics provide additional guidance regarding areas that may be included as deemed appropriate by the author(s) of the marketing plan.

MARKETING ANALYSIS

MARKET SEGMENTATION AND PRODUCT LINE ANALYSIS

- Description of Market Segments
- Identification of Products in each Segment
- Problems in Marketing to each Segment
- Plans for Overcoming these Problems
- Identification of Target Market Segments

CUSTOMER ANALYSIS

- Customer/Program Identification
- Customer Profile – Including user Volume Levels
- Methodology used to Forecast user Volume Levels
- Customer Acceptance
- Customer's Changing Needs
- User Survey

MARKET DEMAND FORECAST

- Market Surveys/Studies
- Time-Phased Projections
- Methodology
- Market Sensitivity
- Major Assumptions

EXTERNAL ENVIRONMENTAL ANALYSIS

COMPETITON ANALYSIS

- Description of Existing and Potential Competition
- Patents and Proprietary Processes
- Competitor's Strengths and Weaknesses
- Competitor's Position in Market
- Competitor's Strategies and Expected Counteractions

COMPETITIVE THREAT ANALYSIS

- Impact of New Entrants

- Rivalry Among Existing Firms
- Threat of Substitute Products/Alternate Materials
- Bargaining Power of Suppliers
- Bargaining Power of Customers

MARKETING PLANNING

PRODUCT DESCRIPTION/FEATURES

- Specifications
- Patents and Proprietary Processes
- Packaging
- Marketing Results of Testing and Qualification
- Customer Needs and Feedback
- Product Differentiation
- Product Augmentation
- Use/User Benefits
- Technical/Process Problems

MARKETING STRATEGY

- Overall Long-Term Strategy
- Detailed Strategy
- Market Entry Qualifications
- Contingency Plans
- Customer Attitudes/Feedback
- Customer partnering Relationships
- Marketing Channels
- Phase I Material Qualification
- Decision Analysis
- Test and Qualification Data Bases
- Distribution and Logistics
- Promotion and Advertising Marketing/Sales Milestones and Schedules
- Detailed Marketing/Sales Budget

VOLUME ANALYSIS

- Objective
- Market Share
- Market Sensitivity
- Sales Projections (Growth Trends) (Optimistic and Pessimistic)
- Production Capability

PRICING ANALYSIS

- Pricing Practices
- Product Pricing
- Unit Cost Analysis

MARKET POSITION

- Strengths and Weaknesses
- Risk Factors

INTERNAL MARKETING STRUCTURE AND FUNCTION

- Corporate Marketing Objectives
- Marketing Philosophy
- Marketing Organization
- Marketing Personnel/Job Functions/Responsibilities
- Marketing Training
- Marketing Programs
- Team Marketing Approaches
- Marketing Function Strengths and Weaknesses
- Corporate Procedures
- Corporate Resources
- Service/Warranty Policies

GOVERNMENT DISTRIBUTION OF MATERIAL

- Provide your ideas and views on how you envision the Government distributing to potential users/Government organizations any material, which it takes possession of during the course of this contract.

ACCOUNTING AND REPORTING

MARKETING PROBLEMS, ISSUES, AND RISKS